

Federal Parks & Recreation

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Volume 29 Number 18, September 23, 2011

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Senators not as one over Park Service Call to Action

Senators from both political parties gave a Park Service Centennial plan a generally congenial reception September 21, perhaps because the plan doesn't require much new funding, if any. At least for now.

The Park Service presented the plan, dubbed *A Call to Action*, to the Senate subcommittee on National Parks.

Subcommittee Chairman Mark Udall (D-Colo.) praised it, particularly the idea of a \$1 billion endowment with no federal money. "A common topic in this subcommittee is the maintenance backlog the Park Service and many other federal land management agencies face," he said. "That backlog is going to continue to grow. . . I'm interested in exploring the endowment idea that is in this report."

Ranking subcommittee minority member Rand Paul (R-Ky.), a leader of the Tea Party movement, was more effusive. "You are not asking for money. I love it," he told NPS Director Jon Jarvis. "I like the idea of an endowment."

Jarvis responded to the senators, "I do believe the National Park System is a great investment and we leverage the appropriated dollars we have. But I did not want to build an action plan from here to 2016 that was predicated on new federal appropriations. That's probably not going to happen."

So, he said, "I gave the team that was working on this direction to build an action plan that could be executed without new money."

Before the subcommittee was a major new report on the future of the

National Park System: the 36-point *A Call to Action*. It was released August 25. The report was prepared by NPS in anticipation of the system's Centennial in 2016 and would in general not require new federal money.

In keeping with the frugal times the report treads lightly on the Obama administration's signature conservation recommendation - full funding for the Land and Water Conservation Fund (LWCF) at \$900 million or more per year.

As close as the report comes to recommending more money is a call for a \$1 billion legacy endowment to be assembled from philanthropic sources. And by definition that money would be derived from nonfederal sources.

To make sure the report gains traction and does not sit on a shelf the Park Service and partner groups are planning an implementation summit for January.

In a preliminary step some 100 people from the five major NPS activist organizations are expected to meet November 1 and 2 in Washington, D.C., to prepare for the January summit. Those groups include the National Parks Foundation, the National Parks Conservation Association, the National Parks Hospitality Association (concessioners) and friends groups. Plus the Park Service.

The summit would be held in Washington, D.C., from January 24 through January 26.

The 36 recommendations in *A Call to Action* include everything from more healthful eating to greater diversity in the workforce. Many track the recommendations of an America's Great Outdoors initiative, President Obama's main outdoor recreation program.

The billion-dollar foundation recommendation is reminiscent of a Bush administration proposal to spend \$2 billion on non-core improvements to the National Park System. In 2007 then Secretary of Interior Dirk Kempthorne launched a \$3 billion National Park System Centennial Initiative that

included the \$2 billion Centennial Challenge.

At bottom the report appears to constitute a doable agenda because it was prepared by NPS employees for NPS employees, in consultation with outside allies. Numerous landmark policy reports on the future of NPS have been prepared over the last decade both by NPS and by blue ribbon commissions, to little effect. Most have sat on shelves.

Coburn gives up - for now - on plan to thwart TE money

After a brief but bitter Senate fight over transportation enhancements Congress gave final approval last week to legislation to extend a surface transportation law through March 31.

President Obama signed the measure into law September 16 as PL 112-30.

The legislation also authorizes Federal Aviation Administration programs through January 30 to give Congress time to write legislation that is expected to include guidance on air tours over national parks. (*See separate article page 11.*)

The transportation enhancements (TEs) dispute erupted last week when Sen. Tom Coburn (R-Okla.) said he was preparing an amendment that would forbid the distribution of any highway money for the program. Senate Majority Leader Harry Reid (D-Nev.) said Coburn intended to place a hold on the legislation, holding up emergency money that was attached to the bill in order to block TE spending.

But Coburn backed off under intense pressure from Reid, Senate Environment and Public Works (EPW) Committee Chairman Barbara Boxer (D-Calif.), Oklahoma's other Sen. James Inhofe (R), conservationists and historic preservationists.

Boxer apparently made the decisive argument, telling Coburn she would offer reforms to TE spending when her committee writes a multi-year surface

transportation spending bill between now and March 31. She said on the Senate floor September 15 that "we are reforming that section next year when we get to the new bill." The reform reportedly will consist of authorizing states to opt out of TE, if they so wish.

Boxer defended the trails paid for by TEs and attacked the notion that spending on highway safety outweighs bike and pedestrian spending. "Pedestrians and bicyclists account for 13 percent of traffic fatalities nationwide, with more than 47,000 pedestrians killed in the nine-year period 2000 to 2009," she said. "That is the equivalent of a jumbo jet crashing every month. So the safety enhancements supported by the program Sen. Coburn wants to eliminate are needed to prevent these deaths."

She also defended trails themselves. "Bike paths and pedestrian walkways are important. Fifty percent of trips are three miles or less, 12 percent of all trips are made by bicycling and walking, and bicycle commuting has increased by more than 40 percent between 2000 and 2008," she said.

Before Coburn capitulated to Boxer and Reid and pulled his amendment, he laid out a case against TEs on the Senate floor. "I am not saying we couldn't spend the money on it," he said. "But when we are short of money, and we are borrowing money to put money into the trust fund, and our number one priority ought to be safety and quality roads and bridges, to spend significant funds on things that are not a priority now - not when we are head over heels in debt, not when the trust fund is precarious - then we ought to not force states to spend money they don't want to spend. Yet in this bill 10 percent of the surface transportation moneys have to be spent on enhancement."

Coburn and Boxer sparred on the floor about how much money TE receives each year. Both were correct. Coburn said 10 percent of Surface Transportation Program money goes to TE, which it does. Boxer said two percent of TOTAL surface transportation money

goes to TE, which it does.

To rail-trail and historic preservation advocates the \$600 million-plus per year from TEs is mighty important. As the Rails-to-Trails Conservancy told its members early last week, "TE is the nation's largest funding source for trails, walking and bicycling. We cannot - and must not - sit by while Sen. Coburn holds our nation's transportation system hostage to attack a popular, cost-effective program that provides affordable transportation, creates jobs and improves health."

The National Trust for Historic Preservation echoed, "The TE program is the largest single source of federal funding for historic preservation, and any change to dedicated funding would be devastating to preservation efforts across the country."

The fight over TEs is not over. It is bound to resume when Boxer's Senate EPW Committee and the House Transportation Committee attempt to write six-year surface transportation bills in the next few months.

Said Kevin Mills, vice president of programs for the Rails-to-Trails Conservancy, in a bulletin to conservancy members, "We are certainly not out of the woods, as this extension will expire at the end of March 2012. We may face similar attacks then, if not before."

House Transportation Committee Chairman John Mica (R-Fla.) has made clear his opposition to the use of Highway Trust Fund gasoline taxes on trails. So his bill will almost certainly not include an allocation for TE, at two percent, 10 percent or any other percent. And Boxer is reportedly committed to letting states choose not to participate.

Putting the squeeze on a long-term surface transportation bill is the dwindling balance of money in the Highway Trust Fund as Americans drive more fuel-efficient cars and for fewer miles.

On future spending, bill outlines of a Senate committee surface transportation bill and a House Transportation Committee bill differ greatly. Mica's outline would authorize spending for six years and would stay within Highway Trust Fund receipts. He would slash funding for surface transportation by more than \$16 billion per year compared to fiscal year 2011. The total annual allocation would come in around \$27 billion.

Boxer and Inhofe would continue existing spending levels of more than \$50 billion per year, but only for two years. (Transportation-spending math doesn't always add up.) Inhofe said the Senate measure would require an extra \$12 billion, presumably from appropriated money.

Our go-to source on the recreation implications of the surface transportation bill, Derrick Crandall, president of the American Recreation Coalition, gave this forecast on the upcoming negotiations over a new bill: "I think we will get a six-year bill before the end of March, with funding for two-to-three years at existing levels, as Boxer recommends. The last four years I think the allocations will drop down to Mica's recommended level of around \$28 billion."

That projection may come with a reset provision. Under the reset in two years or so Congress would consider new sources of revenues for highway construction such as an increase in the gasoline tax or some other source.

Meanwhile, TE got a separate boost September 12 in President Obama's big jobs bill. It includes \$27 billion for highway projects, of which two percent would go to TEs after deducting from some set-aside programs. TEs would receive in the neighborhood of \$500 million. *(See separate article page 6.)*

Gov. Gregoire makes outdoor recreation lead WGA issue

Washington State Gov. Christine Gregoire (D) is giving more than lip service to her campaign to persuade

Americans to visit the outdoor West. She is making Get Out West! her signature issue this year as chair of the Western Governors Association (WGA).

In a rare bipartisan effort Gregoire has persuaded her fellow western governors to agree to the campaign, perhaps because of the economic implications of recreation.

Confirmed an aide to Gregoire this week, "A lot of it is economic. In these troubled times recreation has done fairly well. In Washington (State), as is true of most states, the whole economy has struggled while recreation has done fairly well. We had a two percent increase in revenues from recreation between 2009 and 2010."

The aide, Mark Rupp, director of the Washington, D.C., office for the State of Washington, attributed the increase in visitation to two groups. "Part of it is people staying closer to home to visit state and national parks," he said. "And part of it is with the weakening of the dollar we saw an increase in foreign visitation, particularly from Germany and Asia."

Gov. Gary Herbert (R-Utah), vice chairman of the Western Governors Association, is backing Gregoire. "I am very pleased to work with Gov. Gregoire and our Western colleagues to promote tourism and outdoor recreation in the West," he said when the Get Out West! campaign was announced June 30. "WGA can play a key role in boosting businesses and jobs by highlighting and helping to grow these vital sectors of the West's economy."

It's not just state and local parks. Earlier this month Gregoire said, "We have more than six million acres of city parks and 14 million acres of state parks in the West, not to mention 50 million acres of national parks and monuments. We must find better ways to encourage and assist children to get out and get active if they want to. I applaud The Nature Conservancy for surveying kids to find out about their views on the outdoors."

The Nature Conservancy survey

Gregoire mentioned polled young people on why they don't spend more time outdoors. In that the poll was conducted in late July and early August most said naturally it was too hot to get outdoors. But 62 percent said they lacked transportation and 61 percent said there were no natural areas near their homes.

The bipartisan polling team of Fairbank, Maslin, Maullin, Metz & Associates (D) and Public Opinion Strategies (R) conducted the survey, which was funded by The Toyota USA Foundation, The Nature Conservancy and the Foundation for Youth Investment. The poll can be found at: <http://www.nature.org/newsfeatures/kids-in-nature/kids-in-nature-poll.xml>.

Western state parks and tourism agencies have in the past complained quietly about a lack of cooperation from federal land management agencies that have not aggressively encouraged visitors to often-crowded federal sites. In addition the feds have allegedly discouraged states from promoting visitation to federal sites.

"Until two-to-three years ago the Park Service said they had enough visitors," said one official. "Only recently has the Park Service realized that the decline in visitation was not a good thing. (Secretary of Interior Ken) Salazar helped change that with his fee-free days for one thing. That has produced a sea change in attitude."

Gregoire's aide said Washington state officials have not experienced resistance recently from the Park Service or the Forest Service. "We've had a good working relationship with federal land management agencies," said Rupp.

The Get Out West! campaign dovetails with President Obama's America's Great Outdoors (AGO) initiative. On paper the Council on Environmental Quality (CEQ) is taking the lead at the federal level on implementing AGO, but Salazar appears to be doing much of the spadework.

However, the national budget

crisis has taken its toll on the AGO recommendations. The crisis has stalled - if not done in - a lead recommendation of full funding of the Land and Water Conservation Fund.

In one important step the administration June 13 established an interagency body to coordinate the implementation of AGO, called the Federal Interagency Council on Outdoor Recreation (FICOR). The council is headed by CEQ Chair Nancy Sutley and CEQ will coordinate its work.

On June 13 the Department of the Interior, Department of Agriculture, Department of the Army, Department of Commerce, and CEQ signed a Memorandum of Understanding to establish FICOR.

Interim spending bill slightly below FY '11 amounts

Congress at press time was scrambling to approve a temporary spending extension (HR 2608) to keep all federal agencies in money through November 18 at slightly lower levels than the current fiscal year (2011).

A last-second dispute over emergency assistance between Democrats and Republicans in the House temporarily derailed HR 2608 when the House voted 195-to-230 against the bill. The House was expected to try again at press time.

If passed HR 2608 would provide 1.5 percent less than fiscal year 2011, per a grand budget deal (PL 112-25 of August 2). The interim continuing resolution (CR) would give Congress time to write individual appropriations bills for the entire fiscal year, or to combine them in one omnibus bill.

While the CR, prepared by the House Appropriations Committee, would shift money around among some programs, it appears that no outdoor program would be affected.

CR author Hal Rogers (R-Ky.), chairman of the House Appropriations Committee, emphasized the urgency of moving HR 2608. "It is critical that Congress pass this CR and send it to the

President as soon as possible," he said. "The American people simply do not want or deserve - and our recovering economy can scarcely handle - the dangerous instability of a government shutdown, or any unnecessary holdups in disaster recovery efforts."

Meanwhile, appropriators are expected to wrap all remaining individual spending bills (about 10 of them) into one omnibus CR in the next two months to provide money for the entire fiscal year 2012.

The House has either passed or begun to address most individual fiscal 2012 appropriations bills. Similarly, the Senate Appropriations Committee has now passed all but two individual bills. However, the full Senate has passed just one, for the Department of Defense.

AGRICULTURE BILL: The House approved a fiscal 2012 Department of Agriculture appropriations bill (HR 2112) June 16 with reductions of \$1 billion in conservation spending. And the \$1 billion comes on top of a \$500 million reduction in fiscal 2011. The Senate Appropriations Committee approved a counterpart bill September 7.

ENERGY AND WATER BILL: The House July 15 approved a fiscal 2012 Energy and Water appropriations bill (HR 2354) that would, among other things, block a proposed new Obama administration wetlands permit policy. The Senate Appropriations Committee approved its bill September 7 by a 28-to-2 margin. The Senate committee did not include the wetlands rider.

TRANSPORTATION BILL: The House subcommittee on Transportation approved a bill September 8, but it has not moved since. The full committee has set a spending cap for the surface transportation in the bill of \$47.7 billion that is \$7.7 billion less than the fiscal 2011 appropriation of \$55.4 billion. House Republican leaders had reportedly deferred action on the Transportation bill until fall to allow time to resolve budget deficit disagreements. Unlike the House subcommittee the Senate Appropriations Committee September 21 approved the

same spending as fiscal 2011 for surface transportation programs.

INTERIOR BILL: The House spent a week in July working on an Interior bill (HR 2584) but did not complete it. At press time House leaders had not established a schedule for taking up the bill, either by itself or in an omnibus bill. Nor has the Senate Appropriations Committee begun to address an Interior measure yet.

In the Interior bill the House has been in general tough on "conservation" programs, such as the Land and Water Conservation Fund, heritage areas, state and wildlife conservation grants and historic preservation grants. Federal land managers are doing a bit better, with Park Service and Forest Service appropriations in the neighborhood of fiscal 2011 numbers.

A CR usually imposes strict time limits on floor actions, making it more difficult for supporters of amendments to HR 2854 to gain floor time to offer the amendments. Two major amendments are still pending - one to bar uranium mining on federal lands near Grand Canyon National Park and one to bar the designation of national monuments by the President.

Obama jobs plan includes federal roads, TE allocations

President Obama's \$447 billion jobs bill that was announced last week would set aside roughly \$500 million for a transportation enhancements program. That is of course the same transportation enhancements (TEs) program conservative senators attacked on the floor last week. *(See related article page 2.)*

The President's jobs bill, submitted to Congress September 12, would set aside for TE three percent of a \$27 billion allocation to highway construction. The draft bill would first deduct from the \$27 billion allocations to several other programs, leaving about \$26 billion as a base to calculate the three percent TE allocation.

One of those deductions - federal and Indian land roads - would receive a direct distribution of \$550 million. Of that \$310 million would go to Indian Reservation roads, \$170 million to National Park Service Roads, \$60 million to a Forest Highway Program and \$10 million to refuge roads.

Sen. Tom Coburn (R-Okla.) criticized the TE program last week, not because of the jobs program, but because TEs are included in an interim surface transportation bill that keeps highway money flowing through March 31. Coburn said Highway Trust Fund money shouldn't go to frivolous TE projects such as trails in an economic downturn.

On the House floor he criticized a long list of projects funded with TE money in the past, including \$216,000 to replace fences around oil wells on Lincoln Boulevard in Oklahoma City. Coburn of course is from Oklahoma but so is his colleague Sen. James Inhofe. Although Inhofe (R) is no fan of TEs he is a major supporter of highway spending.

Obama's jobs bill faces much longer odds than did the temporary highway bill, which the President signed into law September 16 as PL 112-30. Congressional Republican reaction to the President's plan has ranged from skepticism to scorn. (Separately, on September 19 Obama proposed sources of revenues for his America's Jobs Act.)

While the jobs bill would provide some transportation money for outdoor projects, unlike the President's trillion dollar 2009 stimulus law the measure would not provide any additional money for infrastructure projects. The 2009 stimulus (PL 111-5 of Feb. 17, 2009) set aside about \$4 billion for federal land management agencies.

Here are the two key provisions dealing with distribution of the \$27 billion in highway money:

ENHANCEMENTS: "(7) TRANSPORTATION ENHANCEMENTS.--Three percent of the funds apportioned to a State under paragraph (4) shall be set aside for the purposes described in section 133(d) (2)

of title 23, United States Code (without regard to the comparison to fiscal year 2005)." (A separate provision mandates the deduction of other set-asides before the allocation to enhancements is made.)

FEDERAL/PARK ROADS: "(10) FEDERAL LANDS AND INDIAN RESERVATIONS.--Of the funds provided under this subsection, \$550,000,000 shall be set aside for investments in transportation at Indian reservations and Federal lands in accordance with the following:

"(A) Of the funds set aside by this paragraph, \$310,000,000 shall be for the Indian Reservation Roads program, \$170,000,000 shall be for the Park Roads and Parkways program, \$60,000,000 shall be for the Forest Highway Program, and \$10,000,000 shall be for the Refuge Roads program."

The bill and information about it are available at: <http://www.whitehouse.gov/blog/2011/09/12/president-obama-sends-american-jobs-act-congress>

Salazar steps up the pace on Fort Monroe monument/park

Secretary of Interior Ken Salazar has moved from listening sessions to actively championing the idea of adding Fort Monroe in Virginia to the National Park System.

To mark the effective closing of the fort as a military installation September 15 Salazar said the department was evaluating the "potential inclusion" of the fort in the system, according to the Department of Interior.

"We have heard loud and clear from the local community, Commonwealth and federal officials, and stakeholders everywhere that Fort Monroe is a place of unique historical and cultural significance that merits protection - and we agree," he said.

How that protection would happen is not clear. To rehabilitate the 565-acre peninsula across the bay from Norfolk, Va., would cost hundreds of millions of dollars. Salazar has mentioned to local media the possibility

of designating the site a national monument managed by the Park Service. That would allow the money, whether from partners or the feds or a combination, to catch up later.

Virginia Sens. Jim Webb (D) and Mark Warner (D) agree with the monument idea. They wrote President Obama June 29 and asked him to designate the site as a national monument. To emphasize the point Webb and Warner introduced legislation (S 1303) June 29 that would establish a Fort Monroe National Historical Park.

Fast action is requested by supporters. Under the 2005 Base Realignment and Closure Act Fort Monroe was removed from the jurisdiction of the Army September 15. The property was transferred to the Commonwealth of Virginia for management by the Fort Monroe Authority, a subdivision of the state.

The campaign could be tripped up by western Republicans who are critics of the Antiquities Act. Rep. Denny Rehberg (R-Mont.) may offer an amendment on the House floor this fall to a fiscal year 2012 Interior spending bill (HR 2584) that would prevent the administration from designating any national monuments.

But there is no doubt that Virginians support the designation of Fort Monroe as a federal conservation area. Backers of a national monument include Gov. Robert McDonnell (R), the Virginia Congressional delegation, conservation groups, and historic preservation groups.

The National Parks Conservation Association (NPCA) last week issued a report that in two ways emphasizes the economic stimulus possibilities of making Fort Monroe a unit of the National Park System.

First, the report analyzed the economic benefits the nearby Colonial National Historical Park provides for the Historic Triangle of Jamestown, Colonial Williamsburg and Yorktown. The report said the park drew 363,000 visitors last year, who spent an

estimated \$327 million in the region. The visitors supported 1,184 private-sector jobs and the Park Service employed 81 staff members.

Second, the report predicted Fort Monroe would be an economic engine. "There is a growing demand for recreational opportunities throughout the state for hiking, birding, boating and other outdoor activities," said Pam Goddard, NPCA's Chesapeake and Virginia program manager. "The Old Point Comfort Peninsula offers public access to over two miles of beautiful Chesapeake Bay shoreline, camping facilities and a marina. Fort Monroe's rich history and beaches will create a world-class destination and infuse tourist dollars into the regional economy."

The report, *Making Connections: Colonial National Historical Park Enhances Economic Vitality in Virginia's Historic Triangle*, is available at http://www.npca.org/mid_atlantic/who_we_are/reginal-publications.html.

Fort Monroe lies on a neck of land across from Norfolk, Va., where the Atlantic Ocean meets the James River. The post oversees a complex set of water bodies that frame the cities of Hampton Roads, Norfolk, Portsmouth and Virginia Beach. It is the largest stone fortification in the country.

The fort was built between 1819 and 1834. It played both a tactical role in the Civil War and a racial role. Tactically, it was one of few Northern military bases that the South didn't occupy.

Racially, General Benjamin Butler made his famous declaration in 1861 that slaves were "contrabands of war" and would not be returned to their southern masters after capture.

In addition to the dozens of historic structures on the Fort Monroe site, there are sweeping open spaces, including a golf course, that hold great potential for recreation. Some of the developed sites are expected to remain with the state and some may be used for commercial purposes.

GOP pushes curbs on monument power; Markey hits back

Western Republicans last week praised six Republican bills that would limit in some way, shape or form a President's authority to designate national monuments under the Antiquities Act of 1906.

The bills are aimed in large part at an Interior Department initiative to protect what Secretary of Interior Ken Salazar calls the nation's Treasured Landscapes. Among other things the administration is attempting to protect "wild lands" without infringing on Congressional authority to designate wilderness.

The chairman of the House subcommittee that held a hearing on the bills, Rep. Rob Bishop (R-Utah), acknowledged that the administration had pulled back from an earlier wild lands program. Even so he intends to make sure no monuments are designated.

"While I appreciate the administration decision to abandon its terrible wild lands program, I have to say that my predecessors have received similar commitments from other administrations in the past yet national monuments were thrust upon them without any input from Congress or the local level," he said.

He added, "We should never allow the administration to try to avoid Congress and should never allow an administration to use a legislative function to avoid Congress in the first place."

The National Parks Conservation Association (NPCA) opposed all six bills. Ron Tipton, senior vice president for Policy for NPCA, said, "These bills would diminish the President's authority to proclaim national monuments, and instead limit the power to make monument 'recommendations' by requiring congressional approval. Other bills would limit which federal lands would be eligible by exempting the Act from applying to certain states."

He concluded, "These provisions defeat the purpose for which the Antiquities Act was created, and would open the door to the claims of developers, mining and energy companies, and others, leading to the degradation of unique federal lands."

If any of the bills do get through the House, they will face tough sledding in the Senate. Bill Wicker, spokesman for the Senate Energy Committee, did not hold out much hope for the legislation in the Senate.

"Similar 'repeal the Antiquities Act' bills have been filed in the Senate, too," he said. "Right now there has been no activity on any of these bills. If they do start to get a little traction, Chairman Bingaman's long-held position on this topic is unchanged: he will oppose them." Bingaman is Sen. Jeff Bingaman (D-N.M.)

A Dec. 10, 2010, initiative from Salazar attempted to establish a program to designate "wild lands" administratively without the approval of Congress was blocked by Congress in a fiscal year 2011 appropriations bill (PL 112-10 of April 15). Salazar changed course and on June 10, 2011, asked Congressional delegations to nominate possible wilderness lands. The designations would require Congressional action.

Western hostility to Salazar's proposal was demonstrated September 7 when the entire Utah Congressional delegation demanded that the state be excluded from the review.

In a letter to Salazar the delegation said, "Local leaders in Utah have overwhelmingly rejected the Department's wilderness approach. Twenty-two of Utah's twenty-nine counties, representing 99 percent of Utah's Bureau of Land Management (BLM) land and covering all three Congressional districts, responded to a similar letter from BLM State Director Juan Palma."

Sen. Mike Lee (R-Utah) added an exclamation point. "The message from Utah's federal, state, and local

officials could not be clearer," he said. "We are not interested in the federal government mandating how Utahns can and cannot use their land. The extent to which the land should be managed should be determined by the citizens of Utah, not by bureaucrats in Washington."

The national monument authority under the Antiquities Act allows an administration to unilaterally protect public lands with restrictive management rules, short of Congressional wilderness designation.

The six bills before the House subcommittee on National Parks, Forests and Public Lands September 13 ranged from a withdrawal of individual states from the purview of the Antiquities Act to requiring state approval before a monument is designated to requiring Congressional approval within two years after a monument is designated. (A summary of the bills is below.)

The Obama administration did not appear at the September 13 hearing. But ranking House Natural Resources Committee Democrat Edward Markey (Mass.) said the "Stop the Monuments" movement, as he called it, was bound to fail because it was based on two faulty premises.

"The first claim is that national monument designations are land grabs that lock up private property," he said. "In reality the Antiquities Act authorizes the President to designate national monuments on federal lands only. . . ."

Markey went on, "The second basic tenet of the Stop the Monuments movement is that it harms state and local economies. This claim is false as well. . . . Each of the large national monument designations examined by Headwaters Economics was followed by increases in population, employment and household income in the surrounding communities."

He concluded, "The Stop the Monuments movement has clearly run its course. If public opinion, economic data, Presidential support and majority vote of the full House of Representatives are relevant, this will

be the last meeting of the Stop the Monuments movement."

The bills before the subcommittee and their lead sponsors:

NATIONAL: HR 302 would require the approval of a state's governor and legislature before a monument could be designated (Rep. Virginia Foxx (R-N.C.))

TWO-YEAR DELAY: HR 758 would allow a President to designate a monument but would require Congressional approval within two years or the designation would be revoked (Rep. Devin Nunes (R-Calif.))

CONGRESSIONAL APPROVAL: HR 817 would require Congressional approval of any monument designation before it could be executed (Rep. Wally Herger (R-Calif.))

STATE-BY-STATE BANS: HR 845, HR 846 and HR 2147 would ban the use of the Antiquities Act to designate monuments in, respectively, Montana, Idaho and Utah. (Reps. Denny Rehberg (R-Mont.), Raúl Labrador (R-Idaho), and Bishop.)

BLM begins re-evaluation of Calif. Desert OHV routes

The Bureau of Land Management (BLM) said September 13 that it will reconsider the designation of more than 5,000 miles of off-highway vehicle (OHV) routes in the California Desert.

BLM was responding to a court order that held a previous plan that designated the OHV routes failed to fully evaluate the impacts of the use on the desert. The bureau said it would issue a decision by March 31, 2014 designating new OHV routes. In the September 13 announcement BLM solicited comments on its new approach to a plan and environmental documentation.

In the interim the court order directs BLM to closely monitor OHV use in the 3 million-acre West Mojave region (WEMO) of the California Desert. Among other things U.S. District Court Judge Susan Illston in the Northern District of California told BLM to sign all OHV

routes and to update all maps to make clear that no area is open to OHVs unless signs clearly indicate open.

The court also directed BLM to report on steps it is taking to insure OHVs comply with route closures and "whether new illegal routes are being created."

For all that Illston did not accept the recommendation of the environmentalist plaintiffs that she close more than 300,000 acres of WEMO in the Juniper Flats, Wonder Valley and Edwards Bowl.

She said that because BLM is committed to closely regulating OHV use with signage and by banning OHVs from closed routes closures aren't warranted "at this time."

The lawsuit at issue was filed on Aug. 14, 2006, by the Center for Biological Diversity and 10 other environmental groups against a March 13, 2006, record of decision from BLM. The ROD was based on an amendment to a 2000 California Desert Conservation Area (CDCA) plan.

The CDCA plan covered the entire 25 million-acre conservation area. In 2006 the Bush administration amended the CDCA plan with the three million-acre WEMO plan.

In her original Sept. 28, 2009, decision Illston held that BLM violated the Federal Land Policy and Management Act (FLPMA) by not considering "minimization criteria" when designating OHV routes. In the WEMO amendment BLM opened the 5,098 miles of OHV use. (On all other charges, such as violations of the Endangered Species Act, Illston upheld the WEMO plan.)

Of the OHV routes Illston said, "With regard to FLPMA, the BLM's route designation process - insofar as that process is documented in the administrative record - did not comply with regulations mandating that the BLM consider various 'minimization criteria' when designating OHV routes. In addition, because the WEMO Plan authorizes numerous OHV routes that were

not in existence in 1980, the WEMO Plan is inconsistent with the governing CDCA land use plan, which limits OHV routes to those existing in 1980."

Finally on January 29 Illston issued a "remedy order" to BLM on how it is to comply with her original decision.

To carry out the order BLM on September 13 announced that it was beginning the planning/environmental review process and asking for public comment on how to approach that process. Among other things BLM said it would determine whether an EIS is required or a less complicated environmental assessment.

Comment by October 13 by E-mail to cawemopa@blm.gov or by regular mail to: *ATTN: Alan Stein, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553-9046.*

Park Service air tour legislation delayed again

Congress is up to 22 extensions and counting of a Federal Aviation Administration (FAA) operations law with major implications for National Park System overflight policy.

On September 15 Congress gave final approval to the 22nd extension of existing FAA authority, thus postponing once again legislation that would revise substantively FAA policy, as well as national park air tour policy. President Obama signed the extension into law (PL 112-30) September 16.

The extensions are supposed to give the House and Senate time to complete multi-year authorization bills that would revise substantially National Park Service air tour policy. Congress has extended the old law for four and one-half years to provide such an opportunity.

The new extension runs through January 30. It was included in legislation that also extends the existing surface transportation law through March.

In July the House and Senate could not even agree on an extension, let alone substantive policy, leaving FAA without money for several weeks.

House Transportation Committee Chairman John Mica (R-Fla.) drew up the extension bill and said it "must be the last." However, the House and Senate are far apart on major substantive policy, such as the rights of transportation union workers.

The House and Senate have each approved long-term FAA extension bills (HR 658, S 223) that include quite different revisions to air tour policy over national parks

The House approved its multi-year FAA bill April 1. HR 658 would establish new aviation policy in general and overflight policy in particular for the next four years. Among other things the bill would exempt parks with 50 or fewer air tours per year from preparation of an air tour management plan. It would also allow FAA and NPS to develop "voluntary agreements" with air tour operators to allow overflights without a management plan.

The Senate approved its multi-year FAA bill February 17. S 223 would establish new aviation and air tour policy for just two years. It would in general tighten regulations governing overflights. Among other things the bill would attempt to clarify the air tour responsibilities of the Federal Aviation Administration and the Park Service.

While the House and Senate differ on overflight policy the overarching issues before a House-Senate conference committee are the price of a bill (House, \$59.7 billion; Senate, \$34.6 billion), the length of a bill (House, four years; Senate, two years) and airline worker union election rules.

Notes

Hatteras ORV rule delayed. The Park Service this month reopened a public comment period on a long-simmering dispute over off-road vehicle (ORV) use in Cape Hatteras National Seashore. Under a consent decree that

settled an environmentalist lawsuit against a previous seashore plan the Park Service was supposed to complete new regulations by April 1 of this year. A federal court has since extended the deadline for final regulations until November 15. Whatever the Park Service proposes in the final rule will probably satisfy no one. A final plan and EIS (but not regulation) that NPS proposed on Dec. 28, 2011, would keep 28 miles of the seashore open to ORV uses and would designate 26 miles of vehicle-free areas. In addition the plan would impose other ORV restrictions seasonally and nights. The seashore runs for 68 miles along the North Carolina coast. A plaintiff in the lawsuit, Defenders of Wildlife, has consistently pushed for greater restrictions on ORV use. But the United Four wheel Drivers Association says, "While it may appear on the surface that Defenders and other self-professed 'conservation organizations' are interested in species protection, the facts demonstrate they are really interested in preventing all ORV use and only protecting species as a means to an end - the end of ORV use on NPS units." NPS September 9 opened a new comment period because Hurricane Irene interfered with some comments. The park closed the comment period September 19. The litigation was brought by Defenders and other environmental groups in October 2007. The lawsuit protested Park Service and Fish and Wildlife Service management policies that they argue endanger plovers, turtles and other species. The policies were laid out in a Park Service Interim Management Strategy of June 13, 2007. A subsequent agreement between the parties settled the lawsuit. U.S. District Court Judge Terrence Boyle in North Carolina signed off on the agreement on April 30, 2008. It essentially forbids ORV use at night during peak summer and shoulder seasons. And it bars ORV access within breeding zones. The decree is supposed to stay in effect until NPS completes the new management strategy.

Elwha Dam removal launched. Washington Gov. Chris Gregoire (D), Washington's two senators, Rep. Norman Dicks (D-Wash.), Secretary of Interior Ken Salazar and three assistant

secretaries of Interior September 17 participated in a ceremony marking the removal of two dams from the Elwha River. The Elwha watershed is the largest in Olympic National Park. Removal of the dams will restore salmon to more than 70 miles of river and revitalize the entire ecosystem. It's been almost 20 years since Congress ordered the removal of the dams. The initial phase consists of the removal of the dams themselves. The Interior Department has awarded a \$26.9 million contract to Barnard Construction of Bozeman, Mont., to do the job. Dam removal is projected to take up to three years. Once the dams are removed the project calls for construction of water treatment plants, flood protection facilities, a fish hatchery and a greenhouse. The Park Service predicts that by lowering the level of water in a lake behind the dams the normal flow of water in the Elwha River will begin cutting a new channel. Some 13 million cubic yards of sediment have built up since the dams were built a century ago. As a result of the removal of the dam salmon and trout are expected to repopulate the river. In addition the restoration of the river is projected to replenish beaches at the mouth of the river. Little power will be lost from removal of the dams: the existing hydro facility provides just one-half of the power required by one mill.

This fire season a bad one. This fire year is rapidly turning into one of the most severe in the last decade, certainly far worse than 2010. At press time the National Interagency Fire Center (NIFC) had reported that almost 7.7 million acres have burned to date this year compared to just 2.7 million acres at this time last year. And the burned acreage this year also far exceeds the 10-year average of 63 million acres burned. The number of fires totals more than 59,000 in 2011, or 12,000 more than the 47,000-plus at the same time last year. The 59,000 fires are about 3,000 fewer than the 10-year average. A Forest Service spokesman at the NIFC told us last week that the service has a little fire-fighting money left over from fiscal year 2011 appropriations, with only two weeks left in the fiscal year. Said the

center, "In FY '11, the U.S. Forest Service has approximately \$1.484 billion available for wildfire suppression (this includes \$995 million for the FY '11 suppression appropriation, \$290 million for the FY '11 FLAME appropriation, and \$165 million in carryover, previously appropriated emergency supplemental, and apportioned recovery funds). As of (September 13), the U.S. Forest Service had spent an estimated \$1.195 billion on wildfire suppression, leaving approximately \$289 million available for the last two weeks of FY '11." The National Interagency Fire Center said this week that the fire danger nationally has eased in the last week.

NPCA objects to ozone bills. The National Park Conservation Association (NPCA) in a new report on ozone pollution in the national parks argues against two pieces of House legislation. One of those bills (HR 2401) would delay an EPA cross-state air pollution rule and is due on the House floor shortly. It is part of the Republican regulatory reform campaign. The other provision would prevent EPA from ordering states to crack down on companies that produce haze over national parks. The NPCA report says parks in the following states registered "Code Red" and "Code Orange" days this past summer - Arizona, California, Colorado, Maine, New Mexico, North Carolina, South Carolina, Tennessee, Texas and Virginia. "With unhealthy ozone pollution on the rise in our national parks, this is no time for Congress to weaken and delay efforts by EPA to clean up our air," said Mark Wenzler, NPCA vice president for Climate & Air. For more information from NPCA: http://www.npca.org/cleanair/pdf/Ozone_violations_in_national_parks_report.pdf

San Juan protection sought. Two Washington State U.S. senators and two Washington U.S. Representatives introduced legislation last week that would give special protection to 1,000 acres in the San Juan Islands off the Washington coast. The bills (S 1559, HR 2912), introduced principally by Sen. Maria Cantwell (D) and Rep Rick Larsen (D), would designate the land a national conservation area managed by the Bureau of Land Management (BLM). BLM already manages the lands, interspersed among

172 islands. Some islands are no more than rock formations and others contain communities and farms. Said Cantwell on introducing her bill September 14, "National Conservation Area status would ensure the San Juan Island properties

are appropriately managed to protect their unique qualities and not grouped in with other BLM lands where activities such as mining, oil and gas exploration, off road vehicle use, and grazing are allowed."

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations fiscal 2012 HR 2584 (Simpson)	(Interior, etc.) House floor in July, but not completed. No Senate action.	Would reduce grant programs sharply, land management agency less so.
Appropriations fiscal 2012 HR 2112 (Kingston)	(Agriculture) House approved June 16. Senate Committee approved Sept. 7.	Would reduce conservation spending by \$1 billion.
Appropriations fiscal 2012 HR 2018 (Frelinghuysen)	(Energy and Water) House approved July 15. Senate Committee approved Sept. 7.	Would block issuance of wetlands permit guidance.
Appropriations fiscal 2012 No bill yet	(Transportation) House subcommittee approved Sept. 8, Senate committee Approved Sept. 21.	Committee spending cap would reduce spending by \$7.7 billion.
Budget fiscal 2012 H Con Res 43 (Ryan) (No Senate bill yet)	House approved April 15.	Would reduce spending overall but keep natural resources level.
Appropriations 2011 CR Omnibus HR 1473 (Rogers)	President signed into law April 15 as PL 112-10.	Reduces spending across the board compared to fiscal 2010, sometimes substantially. Includes Interior, Energy and Water, Agriculture and Transportation bills.
LWCF (guaranteed funding) S 1265 (Bingaman)	Bingaman introduced June 23.	Would guarantee full funding of LWCF each year without appropriations action.
LWCF (fed lands access) S 901 (Tester)	Tester introduced May 5.	Would allocate 1.5 percent of LWCF for access to fed lands for rec.
Urban parks HR 709 (Sires)	Sires introduced February 15.	Would provide \$450 million per year to rehabilitate urban parks.
Roadless areas HR 1581 (McCarthy) S 1087 (Barrasso)	McCarthy introduced April 15. Barrasso introduced May 26.	Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.
National monuments HR 302 (Foxy) HR 758 (Herger) S 407 (Crapo)	House hearing September 13.	Would require state approval of any national monument under Antiquities Act. Herger, Crapo would require Hill approval within two years.
California Desert monument S 138 (Feinstein)	Feinstein introduced January 25.	Would designate a Mojave National Monument and protect 1.6 million acres.
National parks overflights HR 658 (Mica) S 223 (Rockefeller)	House approved April 1. Senate approved February 17,	House tilts towards tour operators and Senate tilts more toward protection.